

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
Telecommunications Relay Services and the) CC Docket No. 90-571
Americans with Disabilities Act of 1990)

SECOND FURTHER NOTICE OF PROPOSED RULEMAKING

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I. INTRODUCTION

1. Title IV of the Americans with Disabilities Act (ADA), which is codified at section 225 of the Communications Act of 1934, as amended (the Act), mandates that the Commission ensure that interstate and intrastate telecommunications relay services (TRS) are available, to the extent possible and in the most efficient manner, to individuals in the United States with hearing and speech disabilities.¹ Title IV aims to further the Act's goal of universal service by providing to individuals with hearing or speech disabilities, telephone services that are functionally equivalent to those available to individuals without such disabilities. The Commission is fully committed to furthering these goals in the manner directed by Congress.

2. The ADA requires the Commission to establish functional requirements, guidelines, and operational procedures for TRS, and to establish minimum standards for carriers' provisioning of TRS. To establish a TRS that provides services which are functionally equivalent to telephone services available to voice users, Congress directed, among other things, that the Commission prohibit TRS providers from "failing to fulfill the obligations of common carriers by refusing calls."² In its *First Report and Order on TRS*, the Commission interpreted this ADA mandate to require TRS providers to handle "any type of call normally provided by common carriers," and placed the burden of proving the infeasibility of handling a particular type of call on the carriers.³ The Commission interpreted "any type of call" to include coin sent-paid calls, which are calls made by depositing coins in a standard coin-operated public payphone.⁴ Subsequent concerns about the technical difficulties associated with handling coin sent-paid calls through TRS centers, however, resulted in multiple suspensions of the mandate for TRS providers to handle these types calls. The Commission issued the first of these

¹ 47 U.S.C. § 225 *et. seq.* TRS enables people with hearing or speech disabilities to communicate by telephone with persons who may or may not have such disabilities. This is accomplished through TRS facilities that deploy special technology and are staffed by communications assistants (CAs) who relay conversations between persons using either text or voice telecommunications devices. To access TRS, a text telephone (TTY) user dials the telephone number of the local TRS center. For the TTY user, this first step - the outbound call to the TRS center - is functionally equivalent to receiving a "dial tone." The caller then gives the number of the party she desires to call to the CA. The CA, in turn, places an outbound voice call to the called party. The CA serves as the "link" in the conversation, converting all TTY messages from the caller into voice messages, and all voice messages from the called party into typed messages for the TTY user. The process is performed in reverse when a voice telephone user initiates the call to a TTY user. See 47 C.F.R. §§ 64.601(5), (7). Other types of relay services use the CA to interpret the signed communication of one of the parties (video relay services) or to facilitate communications for individuals with speech disabilities (speech-to-speech relay services).

² 47 U.S.C. § 225(d)(1)(E).

³ Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, *Report and Order and Request for Comments*, CC Docket No. 90-571, 6 FCC Rcd 4657 (1991) (1991 *Report and Order*). See 47 C.F.R. § 64.604(a)(3). The Commission rejected subsequent petitions submitted by the industry to exempt coin sent-paid relay calls, noting that carriers had failed to meet the heavy burden of proving that the provision of this service was infeasible. Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, *Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking*, CC Docket No. 90-571, 8 FCC Rcd 1802-04 (1993) (1993 *Order on Reconsideration*).

⁴ See 1991 *Report and Order*, 6 FCC Rcd at 4661 n.18.

suspensions in 1993; the most recent of these suspensions remains in effect through May 26, 2001.⁵

3. Because no technological solution to the coin sent-paid issue appears imminent, we issue this *Second Further Notice of Proposed Rulemaking (Notice)* to determine the best plan to make the full range of payphone services available to TRS users. Section 225 of the Act requires the Commission to ensure that interstate and intrastate relay services are available throughout the country and to promulgate regulations prohibiting relay operators from failing to fulfill the obligations of common carriers by refusing calls.⁶ Thus, the Commission has a responsibility to seek further information on the coin sent-paid issue in order to provide persons with hearing and speech disabilities with the most efficient manner of utilizing TRS from payphones. Furthermore, the Commission has a responsibility under section 225(d)(1)(D) of the Act to ensure that "users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communications services . . ."⁷ As a result of this obligation, the Commission must determine if the coin sent-paid rules are efficient and cost-effective for TRS users. In this *Notice*, we therefore seek comment on whether to modify the Commission's rules to permit TRS providers to treat coin sent-paid TRS calls in a manner different from all other calls, or to suspend permanently the enforcement of the requirement that TRS be capable of handling any type of call with respect to coin sent-paid calls. Additionally, we seek input on our proposed rules to provide functionally equivalent payphone service to TRS users in order to develop a sound policy on the obligations of TRS providers with respect to coin sent-paid calls.

II. BACKGROUND

A. Coin Sent-Paid Requirement

4. Congress directed that TRS providers be capable of handling all calls normally provided by common carriers. In accordance with this mandate, the Commission required, in its First Report and

⁵ Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, *Order*, 8 FCC Rcd 8385 (Com. Car. Bur. 1993) (*1993 Suspension Order*); Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, *Order*, 10 FCC Rcd 12775 (Com. Car. Bur. 1995) (*1995 Interim Suspension Order*); Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, *Memorandum Opinion and Order*, 10 FCC Rcd 10927 (Com. Car. Bur. 1995) (*Alternative Plan Order*). The suspension was extended seven times, and the most recent extension expires on May 26, 2001. See *1993 Suspension Order*, 8 FCC Rcd 8385; *1995 Interim Suspension Order*, 10 FCC Rcd 12775; *Alternative Plan Order*, 10 FCC Rcd 10927; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, *Order*, 12 FCC Rcd 12,196 (Com. Car. Bur. 1997) (*1997 Suspension Order*); Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, *Order*, 13 FCC Rcd 15453 (Com. Car. Bur. 1998) (*1998 Suspension Order*); Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, *Order*, 15 FCC Rcd 6675 (Com. Car. Bur. 1999) (*1999 Suspension Order*); Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, *Order*, 15 FCC Rcd 15823 (Com. Car. Bur. 2000) (*2000 Suspension Order*).

⁶ 47 U.S.C. §§ 225(b)(1), 225(d)(1).

⁷ 47 U.S.C. § 225(d)(1)(D).

Order on TRS, that TRS providers be able to handle coin sent-paid calls by July 26, 1993.⁸ Prior to the 1993 deadline, interested parties filed petitions for reconsideration of the Order adopting this coin sent-paid requirement, arguing that TRS was incompatible with coin sent-paid technology.⁹ The Commission found that the petitioning carriers had failed to meet their heavy burden of proving the infeasibility of providing a service readily available to voice telephone users.¹⁰ The Commission found no basis to exempt TRS providers from handling coin sent-paid calls, and again ordered carriers to comply with the coin sent-paid requirement by July 26, 1993.¹¹

5. As the July 26, 1993 implementation date for TRS providers to handle coin sent-paid calls approached, several parties requested that the Commission exclude coin sent-paid calls from the mandatory minimum TRS requirements.¹² Petitioners explained that TRS was not connected to the Automated Coin Telephone System or the Traffic Operator Position System (TOPS), which are used for rating coin sent-paid calls on a real time basis. Handling TRS calls made with coins at payphones, they contended, would be technically difficult because a relay call is, in fact, two separate calls -- one from the customer to the relay center and a second call from the relay center to the called party. Commenters argued that TOPS, the system for assessing the correct charge for coin calls, and for handling coin collection and return functions, is only able to rate the first leg of the call. Neither TOPS nor the TRS centers are equipped to rate the second leg of the call, which reaches the caller's destination.

6. At the same time that the petitioners asserted that it was infeasible to handle coin sent-paid calls, they suggested that within two years, new technologies would be available to solve the technical difficulties.¹³ Consequently, the Bureau suspended the coin sent-paid rule for an additional two years, until July 26, 1995, so that carriers could develop the technology to provide the coin sent-paid service to TRS users.¹⁴

⁸ 47 U.S.C. § 225(c) (1996); 47 C.F.R. § 64.604(a)(3); *1991 Report and Order*, 6 FCC Rcd at 4657.

⁹ Petitions for reconsideration or clarification of the policies and rules adopted were filed by Ameritech Operating Companies (Ameritech), Bell Atlantic Telephone Companies (Bell Atlantic), Bell South Corporation (BellSouth), GTE Service Corporation (GTE), and New England Telephone and Telegraph Company and New York Telephone Company (NYNEX).

¹⁰ *1993 Order on Reconsideration*, 8 FCC Rcd at 1802-04.

¹¹ *Id.*

¹² Prior to July 26, 1993, requests for suspension of enforcement of section 64.604(a)(3) were filed by American Public Communications Council (APCC), AT&T Corp. (AT&T), Ameritech, Bell Atlantic, BellSouth, Cincinnati Bell Telephone, GTE, NYNEX, Pacific Bell and Nevada Bell (Pacific Companies), Rochester Telephone Corporation, Southern New England Telephone Company, Southwestern Bell Telephone Company (SWBT), Sprint Corporation (Sprint), United States Telephone Association (USTA), United Telephone Companies and Central Telephone Companies, and US West. In addition, 51 entities, including states, the District of Columbia and Puerto Rico, filed TRS certification applications pursuant to section 64.604 of the Commission's rules. 47 C.F.R. § 64.604 (1996). All 51 entities filed requests for waiver or extension of time to comply with the coin sent-paid requirement.

¹³ *1993 Order*, 8 FCC Rcd at 8386.

¹⁴ *Id.* at 8385-86.

B. Alternative Plan

7. Shortly after the release of the Bureau's 1993 Suspension Order, an industry team was created to resolve the technical problems associated with handling coin sent-paid relay calls. This team developed a solution using a network platform, called the Coin Signaling Interface (CSI), which would provide an interface between the relay center and the payphone to rate the call. Notwithstanding the development of this solution, as July 26, 1995 approached, several carriers again petitioned the Commission for a continued suspension of the requirement that TRS providers handle coin sent-paid calls. Petitioners asserted that the CSI technology had serious drawbacks, and that compliance with the coin sent-paid requirement still was not technically feasible.¹⁵ Petitioners proposed an Alternative Plan to enable individuals to make relay calls from payphones using payment methods other than coins. The Alternative Plan proposed to require carriers to: (1) allow TRS users to make local TRS payphone calls free of charge; (2) enable TRS users to make toll calls by using calling or prepaid (debit) cards with rates equivalent to or less than those that would apply to a similar conventional call made using coin sent-paid service (coin call rates); and (3) develop programs to educate TRS users about alternative payment methods and to make calling or prepaid cards available to TRS users. Interested parties filed comments and reply comments on the petitions.¹⁶ The Bureau suspended enforcement of the coin sent-paid requirement for one month until August 26, 1995 to evaluate the record.¹⁷

8. On August 25, 1995, the Bureau released a *Memorandum Opinion and Order (Interim Plan Order)* in which it concluded that providing the TRS coin sent-paid service was not technically feasible at that time.¹⁸ The Bureau agreed with commenters that the CSI technology would have serious drawbacks. Specifically, the Bureau found: (1) that this technology would result in a 20-30 second post dialing delay, calling into question whether such calls would be functionally equivalent to conventional coin sent-paid calls; (2) that, in violation of the Commission's rules, it would not be able to accommodate calls from TTYs that transmit data using the American Standard Code for Information Interexchange (ASCII);¹⁹ and (3) that it would require a special relay access number – different from each state's TRS relay number – to be routed through the CSI platform. Finally, the Bureau

¹⁵ Petitions requesting suspension of the requirement that the TRS must be capable of handling coin sent-paid calls by July 26, 1995 were filed by: AT&T; jointly by Bell Atlantic, BellSouth, GTE, NYNEX, Pacific Companies, SWBT and US West; the Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired (InTRAC); MCI Telecommunications Corporation (MCI), the Nebraska Public Service Commission (Nebraska PSC); Sprint; and USTA.

¹⁶ Comments on the Petitions requesting suspensions of the requirement that the TRS must be capable of handling coin sent-paid calls by July 26, 1995 were filed by the APCC; AT&T; Hamilton Telephone Company (Hamilton); the Idaho Public Utilities Commission; and jointly, by the National Association of the Deaf (NAD), the National Center for Law and Deafness, and Telecommunications for the Deaf, Inc. (TDI). Reply comments were filed by AT&T; Bell Atlantic; BellSouth; GTE; MCI; NYNEX; Pacific Companies; Sprint; and SWBT.

¹⁷ 1995 *Interim Suspension Order*, 10 FCC Rcd 12775.

¹⁸ *Alternative Plan Order*, 10 FCC Rcd 10927.

¹⁹ 47 C.F.R. § 64.604(b)(1). ASCII employs an eight-bit code and can operate at any standard transmission baud rate including 300, 1200, 2400, and higher. Because ASCII is faster, it is the preferred protocol for data transmission from TTYs over Baudot, which is a seven-bit code, containing only five information bits. (continued....)

acknowledged that operating the CSI platform would be extremely expensive.²⁰ Based on these findings, the Bureau suspended the TRS coin sent-paid requirement for an additional two years, until August 26, 1997, and adopted the Alternative Plan for the two-year interim period.²¹ The Bureau also directed carriers to file two reports on the effectiveness of the Alternative Plan, due 12 and 18 months after the issuance of the Bureau's Order. (*12-Month Report* and *18-Month Report* respectively).²²

9. 12-Month Report. On August 26, 1996, USTA, on behalf of the TRS Industry Team (Team),²³ filed the *12-Month Report*.²⁴ In this Report, the Team reported that a variety of consumer education programs had been effective in teaching TRS users how individuals with hearing and speech disabilities could use payphones.²⁵ The Report also stated that the Team had consulted with representatives of the TRS user community and had revised the educational materials to accommodate the latter's concerns. The Team reported that fewer than 10 complaints about the Alternative Plan had been registered and that these complaints did not challenge the substance of the Alternative Plan, but were directed towards ancillary issues, such as the use of calling cards and prepaid cards.²⁶ The *12-Month Report* represented that all complaints had been handled promptly and that no subsequent corrective action was necessary.

10. The *12-Month Report* included comments from the National Association for the Deaf ("NAD") questioning the effectiveness of the consumer education campaign. According to the NAD, much of the campaign's material promoted individual relay providers or telecommunications companies rather than providing educational information about the relay service. NAD also stated that the Team had not successfully implemented the Alternative Plan's requirement that the rates for toll calls using calling or prepaid cards not exceed coin-call rates.

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²⁰ *Alternative Plan Order*, 10 FCC Rcd at 10929-30. GTE estimated that the CSI solution could initially cost the industry between \$104 and \$111 million for the first year's operation, with recurring costs of between \$10 and \$20 million annually. Independent payphone providers estimated costs at \$20 million for all payphones nationwide.

²¹ The Bureau stated that the two years were needed to introduce and gain experience with the Alternative Plan, to gather data on TRS and non-TRS payphone use, and to assess any new technical developments that could affect the provision of TRS coin sent-paid calls. *Alternative Plan Order*, 10 FCC Rcd 10927.

²² *Id.*

²³ The TRS Industry Team members were originally the APCC, AT&T, Ameritech, Bell Atlantic, BellSouth, GTE, Hamilton, MCI, NYNEX, Pacific Companies, Sprint, SWBT, USTA, and US WEST.

²⁴ The *12-Month Report* was timely filed on August 26, 1996, 12 months after the adoption of the *1995 Suspension Order*. *Twelve Month Report of the Petitioners on Alternate Plan for Telecommunications Relay Services Coin Sent-Paid Calls*, CC Docket No. 90-571 (Aug. 26, 1996) (*12-Month Report*).

²⁵ The consumer education programs included bill messages and inserts, informational brochures, posters, news releases, direct mail campaigns, radio and Internet messages, advertisements, call guide pages of telephone directories, and group presentations. *12-Month Report* at 3-4.

²⁶ *12-Month Report* at 5. The report did not specify with whom the complaints were registered or who handled them.

11. 18-Month Report. The *18-Month Report*²⁷ recommended that the Alternative Plan be made permanent because: (1) the only technical solution that can provide the coin sent-paid service is CSI, which has serious deficiencies; (2) CSI is not cost effective, based on the limited volume of TRS calls made using payphones; and (3) the CSI solution is even more expensive than reported at the time of the Bureau's *1995 Suspension Order*, because of the Commission's decisions in the *1996 Payphone Orders*²⁸ and the docket addressing N11 codes and other abbreviated dialing arrangements.²⁹ The *18-Month Report* further contended that carriers had educated consumers about the TRS through presentations made to state, regional, and national entities that represented individuals with hearing disabilities and to more general audiences, such as schools and community organizations. The *18-Month Report* also described future planned educational efforts by the Team.

12. The *18-Month Report* stated that most TRS centers accept prepaid or debit cards.³⁰ The Report stated, however, that TRS centers do not know the specific charges that are associated with each prepaid card and that the rates and practices of prepaid card providers vary. The Report explained that "some prepaid cards charge consumers by units (rather than by minutes of use), some offer flat rate charges, while others charge different units or minutes based on the area code of the number to be called."³¹ According to the Report, some prepaid cards even charge for uncompleted calls, such as when a busy signal is encountered. The *18-Month Report* argued that TRS centers cannot ensure that every prepaid card provider's rates or practices are the same as those of the vendor that provides TRS for a particular state. Furthermore, because the prepaid card market consists of over 400 prepaid card providers, the *18-Month Report* asserted that it is not feasible for the vendor to explain the differences between cards to TRS users. The *18-Month Report* contended that the TRS centers should not be required to educate TRS users about products or services that they do not offer or over which they have no control.³²

²⁷ The *18-Month Report* was due on February 26, 1997, 18 months after adoption of the *1995 Suspension Order*. The report was filed on March 12, 1997, after the TRS Industry Team received approval from the Network Services Division of the Common Carrier Bureau for an extension of time until this date. *Eighteen Month Report of the Petitioners on Alternate Plan for Telecommunications Relay Services Coin Sent-Paid Calls*, CC Docket No. 90-571 (Mar 12, 1997) (*18-Month Report*); *Telecommunications Relay Services and the Americans with Disabilities Act of 1990, Order*, CC Docket No. 90-571, 12 FCC Rcd 3523 (1997).

²⁸ Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, *Report and Order*, CC Docket 96-128, 11 FCC Rcd 20541 (1996) (*1996 Payphone Order*); *Order on Reconsideration*, 11 FCC Rcd 21233 (1996) (*1996 Payphone Order Reconsideration*), remanded in part sub nom. *Illinois Public Telecommunications Ass'n v. FCC and United States*, C.A. No 96-1394 (D.C. Cir. July 1, 1997) (collectively *1996 Payphone Orders*).

²⁹ The Use of N11 Codes and Other Abbreviated Dialing Arrangements, *Notice of Proposed Rulemaking*, CC Docket 92-105, 7 FCC Rcd 3004 (1992); The Use of N11 Codes and Other Abbreviated Dialing Arrangements, *First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket 92-105, 12 FCC Rcd 5572 (1997).

³⁰ *18-Month Report* at 8-9.

³¹ *Id.* at 8.

³² *Id.* at 8-9.

13. The Bureau requested comments on the Alternative Plan and the 12 and 18 month status reports by Public Notice dated May 9, 1997.³³ Commission staff subsequently met with representatives from the NAD, Consumer Action Network (CAN) and TDI on June 17, 1997, and with representatives from Sprint, MCI, AT&T and USTA on June 18, 1997.³⁴ All those participating in these discussions acknowledged the carriers' contention that current CSI technology had serious deficiencies, and that, at the time, it was not a viable technology for providing TRS coin sent-paid service. Representatives of TRS consumers, however, believed that the consumer education part of the Alternative Plan had not been effective in informing TRS users about how they can use payphones to make relay calls.

14. In comments to the Public Notice, carriers generally argued that coin sent-paid service offered through the CSI platform to TRS users would not be functionally equivalent to the coin sent-paid service available to non-TRS users.³⁵ The post dial delay, the need for a separate access number, and the inability to handle calls were all cited as problems associated with the CSI solution.³⁶ Many carriers argued that it would be unreasonable to require carriers to deploy an expensive and seriously deficient technical solution to provide coin sent-paid service through TRS centers.³⁷ Indeed, GTE contended that it would not be unreasonable to assume that, as companies implement the Commission's directives in the *1996 Payphone Orders*, the costs associated with implementing the CSI would actually increase.³⁸

15. All carriers and organizations representing carriers filed comments that supported making the Alternative Plan permanent.³⁹ AT&T argued that there was no prospect that new technology

³³ Comment Sought on Eighteen Month Report for Telecommunications Relay Services Coin Sent-Paid Calls, *Public Notice* No. 74032 (rel. May 9, 1997). On June 2, 1997, comments were filed by APCC, AT&T, Ameritech, CAN, GTE, NAD, jointly by SWBT and the Pacific Companies (SWBT and Pacific Companies Joint Comments), USTA, and University Legal Services-Protection and Advocacy (ULS-P&A). INTELICALL, INC. (Intellicall) filed late comments on June 3, 1997.

³⁴ NAD Ex Parte Letter (June 20, 1997) (filed on behalf of CAN, NAD, and TDI); MCI Ex Parte Letter (June 19, 1997) (filed on behalf of AT&T, MCI, Sprint, and USTA).

³⁵ See, e.g., AT&T Comments at 2; GTE Comments at 3; SWBT and Pacific Companies Joint Comments at 3; USTA Comments at 4. The Pacific Companies, and AT&T agreed that the CSI platform was not an acceptable solution because it could reduce the quality of the telephone service provided to all TRS users.

³⁶ See, e.g., AT&T Comments at 2; GTE Comments at 3; SWBT and Pacific Companies Joint Comments at 3; USTA Comments at 4. AT&T and USTA noted in particular that implementing the CSI platform would prevent TRS consumers from using the 711 code for access to TRS.

³⁷ AT&T Comments at 2; GTE Comments at 3 (citing *18-month Report* at 10-11).

³⁸ GTE Comments at 3 (citing *18-Month Report* at 11-14). Under the *1996 Payphone Orders*, the Commission deregulated payphone operators' rates and, consequently, rates for local calls from payphones will vary within a state. *1996 Payphone Order*, 11 FCC Rcd 20541; *1996 Payphone Order on Reconsideration*, 11 FCC Rcd 21233. The *18-Month Report* states that although the CSI platform can indicate through tones what coins have been placed in the payphone, the CSI cannot determine if the coins deposited are sufficient to cover a particular payphone's charges for a local call. *18-Month Report* at 12-13.

³⁹ Ameritech Comments at 1-2; APCC Comments at 2; GTE Comments at 2, 4; SWBT and Pacific Companies Joint Comments at 3; USTA Comments at 1, 5.

would be developed in the foreseeable future to provide coin sent-paid calls through TRS centers.⁴⁰ APCC noted that the Alternative Plan satisfies the statutory requirement that the TRS be provided "to the extent possible" and that communication service for all individuals is not mandated regardless of cost.⁴¹ SWBT and the Pacific Companies asserted that the Alternative Plan offers TRS users convenient ways to make coin sent-paid payphone calls for no more than is charged for conventional coin sent-paid calls.⁴² Additionally, carriers argued that the Alternative Plan burdened neither the TRS Fund⁴³ nor carriers with enormous costs, disproportionate to the net benefit.⁴⁴

16. CAN and NAD agreed that, at the time, the technical and economic difficulties associated with completing coin sent-paid calls to relay centers precluded direct coin access to TRS.⁴⁵ These groups recommended continued suspension of the coin sent-paid requirement, albeit for a limited period of time.⁴⁶ They noted that technology is rapidly changing and may eliminate the technical and economic obstacles to TRS centers handling coin sent-paid calls.⁴⁷

17. These non-carrier commenters also argued that the educational components of the plan had not been effective because relay users still remained unaware of both the options for using prepaid or calling cards, and the procedures to be followed to make TRS calls from payphones.⁴⁸ They suggested that the Commission strengthen the consumer education programs by requiring carriers to take a variety of additional steps to disseminate information about using TRS from payphones.⁴⁹ Finally, these commenters recommended that the Commission monitor carriers' progress with respect to their educational efforts by requiring that carriers submit a status report.⁵⁰

⁴⁰ AT&T Comments at 3. GTE agrees with AT&T that the ability to provide coin sent-paid access to TRS centers does not exist at this time. GTE adds that it is unclear what technological solutions will be developed that can resolve the impediments in processing coin sent-paid calls. GTE Comments at 3.

⁴¹ APCC Comments at 2 (*citing* 47 U.S.C. § 225(b)(1)).

⁴² SWBT and Pacific Companies Joint Comments at 2.

⁴³ The TRS Fund is a shared funding mechanism for recovering the costs of providing interstate TRS. Every carrier with interstate service revenues contributes to the TRS Fund. The amount contributed is the product of the carrier's gross interstate revenues for the previous year and a contribution factor determined annually by the Commission. 47 C.F.R. § 64.604 (1996).

⁴⁴ APCC Comments at 2; Ameritech Comments at 2; GTE Comments at 3.

⁴⁵ CAN Comments at 3; NAD Comments at 3.

⁴⁶ CAN Comments at 3; NAD Comments at 3. CAN supported an additional one-year suspension.

⁴⁷ CAN Comments at 3; NAD Comments at 3; ULS-P&A Comments at 2.

⁴⁸ CAN Comments at 2; NAD Comments at 2; ULS-P&A Comments at 1.

⁴⁹ NAD Comments at 2.

⁵⁰ CAN Comments at 3; NAD Comments at 3. NAD suggested that the Team submit the report to the Commission within nine months of the *18-Month Report*.

C. 1997 and 1998 Suspension Orders

18. On August 21, 1997, the Bureau released an Order suspending the enforcement of the coin sent-paid requirement for an additional year until August 26, 1998 (*1997 Suspension Order*).⁵¹ The Bureau found that providing the coin sent-paid service through TRS centers still was not technically feasible and that no technical solution appeared imminent. Consequently, the Bureau recommended that the Commission conduct a rulemaking proceeding to determine whether the Commission's requirement that TRS providers be capable of handling all calls, including coin sent-paid calls, should be modified.

19. In the *1997 Suspension Order*, the Bureau directed carriers to continue implementing the Alternative Plan set forth in the *1995 Suspension Order*, and also to implement several of the consumer education proposals contained in the *18-Month Report*.⁵² Specifically, the Bureau directed the industry to (1) work with the hearing and speech disabled community to create and disseminate materials about TRS coin sent-paid calls, without advertising the services of individual carriers or relay providers; (2) send a consumer education letter, which had been developed in consultation with the Consumer Action Network (CAN), to TRS centers, which could then use the letter to educate TRS callers about using payphones; (3) send one or more representatives to regional and national meetings sponsored by the hearing and speech disability community to disseminate information, and to demonstrate how to call TRS centers from payphones;⁵³ (4) consult with representatives from organizations that represent the hearing and speech disability community to determine the feasibility of executing other proposals contained in the *18-Month Report*, including a proposal to include articles in the magazines or newsletters of CAN's member organizations, and a proposal to create a laminated card with visual characters depicting how callers could make relay calls from payphones. The Bureau also required carriers to submit a report on their efforts to comply with the Bureau's directives to the Commission within two months of the publication of a summary of the *1997 Suspension Order* in the Federal Register.⁵⁴ Carriers filed this report on November 7, 1997.

20. On August 10, 1998, the Bureau issued an order continuing the suspension of the coin sent-paid requirement. The *1998 Suspension Order* also extended the terms and conditions set forth in the *1997 Suspension Order* until August 26, 1999.⁵⁵ Since 1998, the Bureau has issued two additional orders suspending the coin sent-paid rules.⁵⁶ The most recent suspension order, released on August 23, 2000, suspends the coin sent-paid requirements for nine months or until such time as the Commission

⁵¹ *1997 Suspension Order*, 12 FCC Rcd 12196.

⁵² *Id.* at 12203-04.

⁵³ Meetings to which the TRS Industry Team were directed to send one or more representatives included Alexander Graham Bell Association Convention; Association for Late Deafened Adults (ALDA) Convention; NAD's Convention; Self Help for Hard of Hearing People (SHHH) Convention; TDI Convention; and states' deaf association conventions.

⁵⁴ *1997 Suspension Order*, 62 Fed. Reg. 47152.

⁵⁵ *1998 Suspension Order*, 13 FCC Rcd 15453.

⁵⁶ *1999 Suspension Order*, 15 FCC Rcd 6675; *2000 Suspension Order*, 15 FCC Rcd 15823.

adopts final rules governing TRS users' access to payphones, whichever is earlier.⁵⁷ This suspension will end on May 26, 2001.

D. Response to the 1997 and 1998 Suspension Orders

21. In a letter dated December 2, 1998,⁵⁸ the Industry Team informed the Commission that it had taken several steps to comply with the directives set forth in the *1997 Suspension Order*. Among other things, the Industry Team explained that it had modified the consumer education letter with input from CAN and approximately eighteen organizations representing individuals with hearing and speech disabilities. The Team stated that it had disseminated the letter to TRS centers; published it in newsletters and on websites, and distributed it at a variety of meetings and conventions. The Industry Team indicated that, in consultation with the TRS user community, it had also produced a wallet-sized card with pictorial illustrations and instructions on how to access TRS centers from payphones. The Industry Team informed us that it had attended all national meetings sponsored by TRS user organizations named in the *1997 Suspension Order*⁵⁹ and hundreds of regional and local meetings;⁶⁰ that it had posted the educational letter next to the TTY payphones located in facilities hosting the national and regional meetings; and that it had created a videotape, for use at consumer meetings and conventions, containing step-by-step procedures for making a TRS call from a payphone.

22. In April and May of 1999, we received consumer responses to the TRS Coin Sent-Paid Industry Team Activity Report.⁶¹ These responses contended that the educational letter had not been printed in various organizational newsletters, that coin sent-paid exhibits at conferences did not include prominent displays or hands-on opportunities for consumers, that wallet-sized cards were inconspicuously displayed, and that program books of various events did not list information or workshops about the Alternative Plan.⁶² Responding parties also raised concerns about efforts to educate the public through web sites, noting that potential users of coin sent-paid phones may not have computers and therefore, access to such sites.⁶³

⁵⁷ *2000 Suspension Order*, 15 FCC Rcd 15823.

⁵⁸ Letter to Magalie Roman Salas, Secretary, FCC, from Mike Del Casino, Regulation Division Manager, AT&T, on behalf of the Industry Team (Dec. 2, 1998) (1998 Industry Team Ex Parte).

⁵⁹ See *1997 Suspension Order*, 12 FCC Rcd at 12203 n.38 (meetings included: Alexander Graham Bell Association Convention; ALDA Convention; NAD's Biennial Conference; SHHH Convention; TDI Convention; and states' deaf association conventions).

⁶⁰ The Industry Team that attended these various meetings was comprised of TRS providers, local exchange companies, long distance companies, the APCC, the National Association of State Relay Administrators (NASRA), and USTA. 1998 Industry Team Ex Parte at 3.

⁶¹ Ex Parte, CAN Response to Telecommunications Relay Service Coin-Sent Paid Industry Team Activity Report, CC Docket No. 90-571 (April 27, 1999) (CAN Ex Parte); Ex Parte, Alfred Sonnenstrahl, Response to TRS Coin Sent-paid Industry Team Activity Report (May 3, 1999) (Sonnenstrahl Ex Parte).

⁶² CAN Ex Parte at 5; Sonnenstrahl Ex Parte at 3.

⁶³ CAN Ex Parte at 7; Sonnenstrahl Ex Parte at 5.

23. In its April 1999 Response, CAN requested that the Commission require the Industry Team to develop an annual funding plan, in consultation with CAN, to address the objectives of the Alternative Plan, as modified in 1995. CAN noted that it would support permanent adoption of the Alternative Plan if this funding plan proved to be successful in expanding awareness about TRS payphone access.

III. NOTICE OF PROPOSED RULEMAKING

A. Overview of Proposed Rules

24. Request for Comments. To date the record developed in this proceeding demonstrates that providing a functionally equivalent coin sent-paid service to TRS users is not technically feasible at this time. Section 225 of the Act requires that carriers provide relay services which are "functionally equivalent" to voice telephone service.⁶⁴ To date, only one solution for processing coin sent-paid relay calls – the CSI solution – has been developed. In order to determine whether payphone service offered to TRS users over the CSI platform would satisfy section 225, we must examine whether this service meets this "functional equivalency" mandate. We tentatively agree with commenting carriers and non-carriers that implementing the CSI platform to provide coin sent-paid access to the TRS centers at this time would not create a TRS service that is functionally equivalent to coin sent-paid or other payphone services available to non-TRS users.⁶⁵ First, the 20 to 30 second delay on calls made using CSI technology would make the relay service much slower than traditional payphone service, seriously inconveniencing TRS users. In addition, the CSI platform is not compatible with the ASCII format, and therefore its implementation would violate section 64.604(b)(1) of our rules, which requires TRS to be compatible with both the ASCII and Baudot formats.⁶⁶

25. Throughout the history of this proceeding, we have sought technical solutions other than the CSI solution to meet the functional equivalence requirement of Section 225 of the Act. The industry, however, has been unable to develop such technical solutions for the last ten years. Based on the current record, we specifically propose that it is unlikely that the industry will develop an economically feasible technical solution in the foreseeable future.

26. Based on the data for toll calls for non-TRS users, we tentatively conclude that the number of toll coin sent-paid calls that TRS users would make, if they could, would be small, and might be significantly less than two percent of all relay calls. We base our conclusion on data, provided by AT&T in the *18-Month Report*, stating that the percentage of coin usage on its network has declined from slightly over 2 percent in 1993 to 1 percent in 1996. According to AT&T, the decline in coin sent-paid calls can be expected to continue in the face of recent marketplace developments, such as the growth of prepaid card use, broader deployment of calling cards, and the development of competitive alternatives such as wireless telephony.⁶⁷ We also base our conclusion that TRS toll usage is minimal on the fact that TRS payphone calls in general, including calls made using calling cards or prepaid cards and

⁶⁴ 47 U.S.C. §225(a)(3).

⁶⁵ See e.g., CAN Comments at 3; GTE Comments at 3; ULPA Comments at 2; USTA Comments at 4.

⁶⁶ The Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, *Second Report and Order*, 15 FCC Rcd 15188 (2000) (*N11 Second Report and Order*).

⁶⁷ AT&T Comments at 2. See also GTE Comments at 5; SWBT and Pacific Companies Joint Comments at 2.

third party collect calls, comprised less than two percent (between 1.35 percent and 1.97 percent) of all TRS calls in 1996.⁶⁸ We seek comment on this tentative conclusion. Parties who dispute our conclusion should submit any available data or other available supporting evidence relating to coin sent-paid call usage for non-TRS users and payphone call usage for TRS users.

27. Section 64.604(a)(3) of our rules requires carriers to handle all calls, including coin sent-paid calls, unless carriers can prove the infeasibility of handling a particular type of call. Given our specific proposals that: (1) employing CSI would not satisfy the functional equivalency test under section 225 of the Act; (2) there is no other known technical solution to provide coin sent-paid calling through the TRS centers; and (3) coin sent-paid usage is continuing to decrease among non-TRS users, we propose to eliminate the obligation of carriers to handle coin sent-paid calls to TRS center, as currently required by section 64.604(a)(3) of our rules. In its place, we propose new rules in this Notice that are designed both to enable TRS users, without coins, to make relay calls from payphones that are functionally equivalent to calls by non-TRS users, and to provide the education and outreach needed to ensure that TRS consumers are aware of the methods by which they can make these calls.

28. Our proposal to eliminate the requirement that TRS providers be able to handle coin sent-paid calls will eliminate as well the uncertainty that our temporary suspensions have created for both the industry and consumers.⁶⁹ Instead, we specifically propose that carriers must provide a payphone service for TRS users that is functionally equivalent to that provided to callers not using a relay service. We intend our proposed rules to provide clear direction on how carriers must achieve functionally equivalent payphone service for individuals who are deaf or hard of hearing, or who have speech disabilities. The decline in the number of coin sent-paid calls by non-TRS users and the increase in prepaid and calling card usage for all users suggest that our proposed approach may better fit TRS users' needs and patterns of usage, as well as nationwide patterns, and that it would be more technically and economically sound than implementing the CSI technology.⁷⁰

29. We recognize that section 225(d)(2) requires the Commission's regulations to encourage the use of existing technology and not to discourage or impair the development of improved technology. We, therefore, encourage carriers and equipment manufacturers to develop future improvements in coin sent-paid technology that could support coin sent-paid service through TRS centers. We invite interested parties to submit information about new technologies that can provide coin sent-paid service through the TRS centers in a manner that is functionally equivalent to traditional payphone service. We note that if such a new technology were developed, the Commission would reexamine these issues and its findings in this proceeding.⁷¹ Parties that disagree with our proposal to exempt coin sent-paid calls from our current TRS requirements should comment on the costs and burdens of any uncertainty that will result if we continue to suspend enforcement of section 64.604(a)(3) of our rules insofar as coin sent-paid calls are concerned, on a temporary basis.

⁶⁸ *18-Month Report* at 16; *see also* GTE Comments at 4-5. APCC also has conducted a study of independent payphones that revealed a 2.48 percent decline in coin sent-paid calls for the period January 1996 to December 1996; Team Supplement Information (May 12, 1997).

⁶⁹ *See infra* paras. 28-29

⁷⁰ GTE Comments at 5.

⁷¹ *See infra* paras. 35-36.

30. In order to ensure compliance with section 225 of the Act and section 64.604(a)(3) of our rules, TRS must be capable of handling all other types of payphone calls – other than coin sent-paid – that are normally provided by common carriers. To fulfill these statutory and regulatory requirements and to ensure that TRS calls made through payphones are functionally equivalent to voice calls made through payphones, we specifically propose that common carriers should: (1) not charge TRS users for making calls that would otherwise be local from payphones; (2) enable TRS users to use calling cards, credit or third party billing for toll calls from payphones at rates which are the lower of the coin sent-paid rate or the rate for the calling card, credit, or third party billing; and (3) conduct extensive consumer education programs to educate TRS users about their payphone calling options. Our proposed rules are based on the Alternative Plan, and the experience associated with its implementation. We seek comment on the foregoing specific proposals and on the attached proposed rules.

B. Proposed Rules

1. Payment Methods

a. Local Calls

31. First, we specifically propose that local payphone calls made through TRS centers must be provided by carriers to TRS users on a cost-free basis. When a TRS user makes a relay call from a payphone, computer technology at the TRS center identifies the call as a payphone call. If the TRS user, then seeks to make a local call, carriers' "coin supervision" equipment in the central offices cannot process and supervise coin deposits for the second leg of the call from the payphone. The level of prevalent charges for local calls from payphones also makes it cost ineffective for such local calls to be billed later. Accordingly, when the CA observes on the computer monitor that the second leg of the call is a local one, the CA should indicate to the local carrier that it should not bill the TRS user for the local call.

32. Problems with billing for local calls from payphones may arise when TRS users access payphones using prepaid cards. If a consumer uses TRS for a local call from a payphone and provides the CA with the prepaid card's access number, the TRS user may be charged for the call because some prepaid cards start charging the moment the number to access the carrier's services is dialed. The CA has no way to delay the commencement of charges or to reverse the charges once they are incurred. Moreover, according to CAN, the definition of a local payphone call under the Alternative Plan has varied across states and TRS centers.⁷² CAN explains that, in some cases, a TRS user may be charged as if the call were a long distance call even though the distance between the caller and the called party is only a few blocks.⁷³ We seek comment on methods to ensure that the TRS user that makes a local payphone call is not charged for the call.⁷⁴

⁷² CAN Comments at 3.

⁷³ *Id.*

⁷⁴ We note that local calling areas for intrastate calls are, in most cases, determined by state regulatory agencies and not the Commission. If a caller places a call to a location outside the local calling area, even if the distance between the caller and the called party is short, that caller will incur toll charges, whether or not the call is a TRS or a traditional payphone call.

33. We seek comment on whether we should adopt requirements to assist TRS users to avoid having to provide the prepaid card's access code to CAs for local calls. We specifically propose that CAs should ask TRS users for the telephone number to be dialed and tell the TRS users if the call is local, thereby precluding the need for the caller to provide a payment method. In addition, we propose to require carriers to implement consumer education programs that explain how and when to use pre-paid cards. Among other things, such programs should alert consumers that they should not use these cards for local calls. We seek comment on these proposals.

b. Toll Calls

34. Second, we specifically propose that callers must be able to use calling cards, collect or third party billing to pay for toll calls from payphones using TRS centers. We further conclude that carriers may not charge more than the lower of the coin sent-paid rate or the rate for the calling card, collect, or third-party billing, for toll calls from payphones using TRS centers. This proposal differs slightly from the Alternative Plan, in that the Plan gave carriers the option of providing payphone TRS calls at coin call rates through *either* a calling card *or* a prepaid card. Although our proposed rules will not regulate the rate of toll TRS payphone calls made with prepaid cards, they offer TRS users other payment options for calls from payphones. We seek comment on our specific proposals.

35. Our specific proposal that carriers need not offer both calling and prepaid cards at rates equivalent to or less than the coin sent-paid rate is based on a number of factors.⁷⁵ First, the Commission has no regulations regarding rates for prepaid card vendors that are not carriers.⁷⁶ In *AT&T Corp. v. Bell South Corporation*, the Bureau explained that such prepaid calling cards function merely as a form of currency that permits holders to place both local and long distance calls when they are away from home.⁷⁷ Thus, such cards are merely a method of billing and collecting. The Bureau therefore concluded that BellSouth's association with and issuance of, the BellSouth Prepaid Phone Card does not amount to the "provision" of in-region, interlata service in violation of section 271 of the Act.⁷⁸ Furthermore, because prepaid card rates could vary significantly from vendor to vendor, it would be difficult to educate TRS users about the wide variation in prepaid card rates and to guarantee to TRS users that the prepaid card rates offered by certain carriers would be equivalent to or less than the coin sent-paid rate. Second, implementing the proposal could place carriers at a competitive disadvantage relative to other prepaid card vendors in the prepaid market because non-carrier prepaid card vendors could set market rates for their prepaid cards, while carriers would be prohibited from offering prepaid

⁷⁵ USTA states that most carriers have not chosen to offer a prepaid card at or below the coin call rate. USTA Comments at 3. We are aware of only one carrier, Hamilton, that has elected to offer its prepaid card at or below the coin call rate.

⁷⁶ Section 225 of the Act requires that "common carriers providing voice transmission services shall. . . provide . . . telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers." 47 U.S.C. § 225(c).

⁷⁷ *AT&T Corp. v. BellSouth Corporation*, *Memorandum Opinion and Order*, 14 FCC Rcd 8515, 8534, para. 38 (Com. Car. Bur. 1999) (*AT&T v. BellSouth*). A similar analogy was made by Judge Greene when addressing calling cards that provide access to local and long-distance service charged to a customer's local service bill. Judge Greene said, "[c]alling cards are today ubiquitous billing mechanisms. They provide a convenient method for calls made away from the customers usual telephone, an increasingly common occurrence." *United States v. Western Electric Co., Inc.*, 698 F. Supp. 348, 353 (D.C. 1988).

⁷⁸ *AT&T v. BellSouth*, 14 FCC Rcd at 8534, para. 40.

cards at rates greater than the coin sent-paid rate. We specifically propose that requiring carriers to provide prepaid cards at or below the coin sent-paid rate would not be feasible.

36. Rather than require carriers to offer prepaid cards at or below coin call rates, we propose to require all carriers to offer a calling card and to accept payphone TRS calls using third party or collect billing at or below the lower of the coin call rate or the rate of the method of payment chosen by the caller.⁷⁹ We specifically propose that this proposal would satisfy carriers' obligations under Title IV of the ADA to provide a functionally equivalent payphone service to that provided to non-TRS users. Under our proposed rules, although carriers would be required to offer coin sent-paid calling at the lower of coin sent-paid, calling card, and third party and collect billing rates for TRS users, carriers could continue to set their own prepaid card rates.⁸⁰ Commenters have expressed confusion over the rates of relay calls made from payphones using calling cards or prepaid cards. For example, NAD suggests that consumers are not clear about whether they have a choice of using either calling or prepaid cards – or just one of these methods – at coin call rates.⁸¹ Similarly, USTA notes that the terms and rates of prepaid cards vary widely because these cards are offered by carriers as well as non-carriers.⁸² We specifically propose that our proposal would alleviate much of the confusion which exists under the Alternative Plan about obtaining TRS rates that are functionally equivalent to coin rates. This is because our proposed rule would provide assurance that the lowest rate for TRS payphone calls, whether it is the coin sent-paid, calling card, third party or collect billing rate, would be the rate charged the TRS user. By permitting callers to use calling card, third party and collect billing at whichever rate is lower, the coin call rates or the billing method chosen by the caller, we also believe we will eliminate problems that may be encountered by low income callers who may not qualify for calling cards. This option is especially important because carriers may opt only to provide calling cards, and not pre-paid cards, at the lower rate.

37. We seek comment on the above proposal. Specifically, we request that commenters identify carriers that have chosen to comply with the Alternative Plan by offering a prepaid card at or below the coin call rate. This information will enable the Commission to determine how many carriers will be required to change their current practice of complying with the Alternative Plan and any hardship that might be involved in complying with the Commission's proposed rules. In addition, because new payment methods for payphones may become available, we seek comment generally on how our proposed rules should accommodate these new payment methods (i.e., smart cards). Finally, if we adopt this proposal, we seek comment on specific educational efforts that would be needed to acquaint consumers with information about the least expensive means of completing TRS calls from payphones.

⁷⁹ Because AT&T is the only carrier that offers the coin call service from "dumb" payphones, carriers set their calling card rates at or below AT&T's tariff for coin call services. "Dumb" payphones rely on central office controls to collect and return coins or perform other control functions. In contrast, "smart" payphones can rate calls or collect or return coins because intelligence resides within the payphone unit. US West's Comparably Efficient Interconnection Plan for Payphone Services, *Order*, 12 FCC Rcd 4837 n.15 (1997).

⁸⁰ Note, however, that TRS centers would be required to continue accepting both calling and prepaid cards from TRS users.

⁸¹ NAD Comments at 3.

⁸² USTA Comments at 3.

38. CAN raises the concern that carriers often impose surcharges on TRS calls from payphones when consumers use a calling card.⁸³ This has the undesired effect of causing the rate plus the surcharge to exceed the coin call rate. In order to eliminate this problem, we propose to clarify that carriers may impose surcharges on payphone calls but that the total cost of the surcharge and the calling card rate must not exceed the coin sent-paid rate.

39. Additionally, CAN raises the concern that TRS users are sometimes charged more than once for making toll payphone calls that reach an answering machine or an interactive voice responsive (IVR) system.⁸⁴ This occurs where the CA does not have sufficient time both to inform the caller that a recorded message has been reached and to leave a message.⁸⁵ In this situation, TRS users may be charged for multiple calls to the same number. To remedy this, we specifically propose that carriers should charge TRS users for only one call if the TRS user makes a relay call that reaches an answering machine or an IVR system and must make subsequent relay calls to leave a message on the machine or to retrieve information from the IVR system. This approach is consistent with changes made in the Commission's recent Report and Order on relay services, which now prohibits charges for additional calls needed to complete interactions with recorded messages.⁸⁶ We ask for comment on how to ensure that TRS users are not charged twice in this situation.

2. Consumer Education Programs

40. We next address the issue of educating TRS users about their ability to make payphone calls. In recent Commission proceedings on TRS, we have noted the importance of adequate outreach and education to expand awareness about the availability of TRS. For example, in the *Improved TRS Order*, we reaffirmed the obligation of carriers to ensure that callers in their service areas are aware of TRS, noting that broad awareness is critical to meeting the functional equivalency mandate and to the provision of high quality relay services.⁸⁷ In a *Further Notice* accompanying that Order, we proposed a number of rule changes designed to increase awareness about the availability and use of TRS. Similarly, in the *N11 Second Report and Order*, we noted the importance of comprehensive outreach in educating the public about the availability of 711 as the nationwide relay access code.⁸⁸ Toward that end, we established a new rule requiring ongoing education and outreach programs to publicize the availability of 711 access "in a manner reasonably designed to reach the largest number of consumers possible."⁸⁹

41. We continue to believe that extensive outreach campaigns are necessary to expand consumer awareness about making TRS calls from payphones. Over the past several years, TRS consumers and

⁸³ CAN Comments at 3.

⁸⁴ See *supra* para. 19.

⁸⁵ Telecommunications Relay Services and Speech-to-Speech Service for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 5140 (2000) (*Improved TRS Order*).

⁸⁶ *Improved TRS Order*, 15 FCC Rcd at 5191, para. 96.

⁸⁷ *Id.* at 5194-95, paras. 104-105.

⁸⁸ *N11 Second Report and Order*, 15 FCC Rcd at 15215-18, paras. 58-64.

⁸⁹ *Id.* at para. 61. See also, 47 C.F.R. § 64.603(4).

industry have generally reached consensus on the types of outreach and education that can be effective for this purpose. Several of these measures have already been implemented by carriers. For example, in 18-Month Report, the TRS Industry Team reported that it had prepared an informational letter and news article for consumer publications, had participated in exhibits at national and regional consumer conferences, and had developed a laminated card providing a pictorial explanation about TRS access from payphones. Virtually all of the consumer education projects undertaken by the Industry Team were the product of extensive discussions and consultation with the TRS consumer community.

42. In June 1997, consumers raised concerns about the effectiveness of the outreach efforts that had been reported in the Industry Team's 18-Month Report. In response, the Bureau, in its 1997 *Suspension Order*, directed the industry to further expand its consumer education proposals. As noted earlier,⁹⁰ the 1997 *Order* contained directives to create and disseminate materials about TRS coin sent-paid calls, send a consumer education letter to TRS centers, send one or more representatives to regional and national consumer meetings, and to consult with representatives of the hearing and speech disability community in carrying out each of these measures. In a letter to the Commission dated December 2, 1998, the TRS Industry Team reported that, in fact, it had taken several additional steps to comply with the directives contained in the 1997 *Order*. At that time, the Team reported that it had modified the consumer education letter with input from consumer organizations, disseminated the letter through TRS centers, newsletters, conferences, and websites, produced a wallet-sized card with pictorial illustrations, and had attended hundreds of national, regional, and local consumer conferences and meetings.

43. Notwithstanding the various outreach measures reported by the Industry Team, we remain concerned that the Industry Team's educational efforts have not been effective in educating the TRS community about their payphone options.⁹¹ In April and May of 1999, we received consumer submissions that contended that the educational letter had not been printed in various organizational newsletters, that coin sent-paid exhibits at conferences did not include prominent displays or hands-on opportunities for consumers, and that program books of various events did not list information or workshops about the Alternative Plan. Parties also raised concerns about the failure to effectively distribute the laminated informational card and about reliance on educating the public through websites, noting that potential users of coin sent-paid phones may not have computers and therefore, access to such sites.

44. We specifically propose that implementation of the current educational and outreach programs has not been fully adequate. We believe, however, that this may be due to a reluctance on the part of the industry to engage in more extensive outreach efforts prior to our issuing a final rule resolving the issue of TRS calls from payphones. Our present proposal to eliminate the coin sent-paid mandate will open the door for the industry to now turn its efforts to expanding its educational programs. To this end, we seek comment on the following outreach proposals, many of which are the product of an industry-consumer consensus, and several of which more clearly define proposals already contained in our 1997 *Order*.⁹²

⁹⁰ See *supra* para. 19.

⁹¹ See *supra* para. 22.

⁹² Although carriers are not directly reimbursed from the TRS Fund for consumer education programs such as publishing instructions on accessing the TRS from a payphone, TRS providers can report the consumer education programs "costs" to National Exchange Carrier Association, Inc. in their annual cost data filing. Such costs can be (continued....)

45. First, propose to require that carriers mail to CAN members and member organizations and to TRS centers, a consumer education letter providing instruction on how to make TRS payphone calls and the various options available for payment of these calls. Carriers should consult with organizations representing individuals with hearing or speech disabilities to develop this letter in a manner that reflects the final rules adopted in this proceeding.⁹³ Organizations representing TRS users and TRS centers could then disseminate this letter through newsletters and other means. We seek comments on the costs and benefits of preparing and distributing a letter of this kind.

46. Second, we specifically propose that carriers should attend and set up informational booths at local, regional and national consumer conferences of organizations representing people who are deaf, hard of hearing and speech disabled. At the booths, designees should disseminate educational material, which may include, but not be limited to, wallet-size cards with visual characters and text describing how to make relay calls from payphones. In addition, designees could provide "hands-on" demonstrations on access to TRS centers from payphones. We propose that carriers consult with consumers on the best means by which carriers can provide these demonstrations, i.e., whether carriers should play a videotape at the booth or set up a live demonstration using payphones.

47. Third, we seek comment on whether carriers should be required to place instructions on how to make TRS payphone calls, near or on TTY payphones located in public areas. Comments on this proposal should discuss the steps involved in posting the instructions, the location for the instructions, the entity responsible for posting the instructions, the costs involved, and ways to ensure that the instructions are not removed.

48. Fourth, we seek comment on whether we should require carriers to establish an Internet web site for individuals to obtain information about making relay calls from payphones. The web site could illustrate how to make relay calls from payphones, provide information on the cost of such calls, display the consumer education letter and/or provide a video on making a relay call from a payphone. Comments should focus on who should create the web site, where it should be located, if and how the web site should be publicized, and who should be responsible for underwriting the cost for the web site.

49. Fifth, we propose, as originally suggested by GTE, to require carriers to place step-by-step instructions that describe how to make relay calls from payphones in telephone directories.⁹⁴ GTE observes that the directory is permanent and answers questions systematically and completely. GTE also explains that notification through directories allows disability organizations simply to refer an individual to the telephone directory that covers the serving area for instructions on how to make a relay call.⁹⁵ We seek comment on this proposal. In addition, we seek comment on the information that should be published in the telephone directory (e.g., steps required to make local, and toll TRS calls from payphones and the costs of making these calls).

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built into the per-minute reimbursement rate for interstate TRS. The higher the costs, the higher the average payment rate. Consequently, carriers are indirectly reimbursed for their consumer educational programs.

⁹³ See *supra* para. 19.

⁹⁴ GTE Comments at 6.

⁹⁵ *Id.*

50. We specifically propose that carriers should regularly consult with representatives of people with hearing and speech disabilities in carrying out the above measures, and to determine the effectiveness of each of these consumer education programs. We seek comment on this specific proposal.

51. The consumer education programs proposed in this *Notice* are only a few steps that we could require to improve consumer awareness about making relay calls from payphones. We seek comment on additional methods needed to educate TRS users about their payphone options, and the extent to which such outreach efforts should be coordinated with outreach and education efforts required in our other TRS proceedings.⁹⁶

52. Finally, similar to the requirements under the Alternative Plan to file reports with the Commission,⁹⁷ we specifically propose that twelve months after we adopt final rules in this proceeding, carriers should submit a report to the Commission, detailing the steps that have been taken to comply with the consumer education programs contained in our final Order. Such report will facilitate Commission efforts to ensure that TRS consumers have the information they need to complete TRS calls from payphones. We further conclude that should we find such report to be adequate, there shall be no additional periodic reporting requirements imposed on carriers. We note that carriers have an ongoing obligation under our rules to provide the public with information about the availability and use of the TRS, including the availability and use of payphones to access TRS.⁹⁸ Our specific proposal not to require additional reporting by carriers after submission of this 12-month report will not relieve carriers of this ongoing obligation. If, after an investigation on our own motion or in response to a complaint, we find a failure to comply with these rules, we may impose forfeitures or additional reporting requirements. We seek comment on our specific proposal.

3. TTY to TTY Calls from Payphones

53. The Alternative Plan does not address TTY-to-TTY calls from payphones. Because TTY-to-TTY calls from payphones are typical for TRS users, we must ensure that TRS users are, in fact, able to make these calls from payphones using the carriers of their choice, at rates that are equivalent to voice-to-voice calls from payphones. Our concern is that many TRS users are either unaware of their ability to make TTY-to-TTY calls from payphones, unfamiliar with how to make those calls, or unable to use their carriers of choice when making such calls.

54. We ask for comment on how individuals can make TTY-to-TTY calls from payphones using the carriers of their choice. Specifically, we seek information on the step-by-step procedure for making both local and toll calls from payphones, tracing the path of the calls through the network. Further, we request information on the method of payment for such calls, *i.e.*, whether or when individual users can use a calling card or a prepaid card to make such calls, and the method of billing. We specifically propose that individuals must be able to make TTY-to-TTY calls from payphones using the carriers of their choice, at rates which are equivalent to voice-to-voice calls. We ask for comment on whether and how the Industry Team should educate consumers about their ability to make such calls.

⁹⁶ *Improved TRS Order*, 15 FCC Rcd at 5194-95, paras. 103-105; *N11 Second Report and Order*, 15 FCC Rcd at 15214-15, paras. 56-57.

⁹⁷ See *supra* paras. 9-12.

⁹⁸ 47 C.F.R. § 64.604(c)(2).

We tentatively find that education on how to make such calls is necessary and ask for comment on this specific proposal.

4. Monitoring Technological Solutions to the Coin Sent-Paid Issue

55. Our proposal to exempt coin sent-paid calls from our TRS requirements on a permanent basis comes after nearly a decade of concerted efforts to find a technical solution that could have made the handling of these calls both feasible and functionally equivalent to conventional voice telephone calls. Although a technical solution still does not appear to be imminent, rapidly changing developments in the field of telecommunications leaves open the possibility that a technical solution will be developed at some time in the future. We are concerned that if we stop monitoring the technological developments, a technical solution to the coin sent-paid issue may not be developed. We are also mindful, however, of not imposing stringent reporting requirements on carriers, given the years spent trying to find a technical solution to the coin sent-paid issue.⁹⁹

56. We seek comment on whether and how we should monitor technological developments in the provision of coin sent-paid service through TRS centers from payphones. If technology is developed that enables coin sent-paid service to be provided through the TRS centers in a manner that is functionally equivalent to voice calls, we specifically propose that the Commission should revisit the issue of how best to meet the requirements of section 225 of the Act. First, we ask parties to address the extent to which we should require carriers to continue to study the technological issue surrounding the transmission of coin sent-paid calls through TRS centers. Second, we ask parties to comment on the costs and benefits of requiring carriers to monitor technological developments in the provision of coin sent-paid service through TRS centers. We also tentatively conclude that the newly formed Consumer/Disability Telecommunications Advisory Committee will be a useful forum for discussing technological developments in the provision of coin sent-paid calls through TRS centers.¹⁰⁰ We request that parties with specific suggestions regarding this Advisory Committee provide comment on this tentative conclusion. Finally, we seek comment on whether the Commission should require the TRS Industry Team to file periodic, timely reports when new technical developments arise.

5. Impact of the Recent Commission Decisions on our Proposed Rules

57. Since the 1995 *Suspension Order*, the Commission has issued the 1996 *Payphone Orders*. Section 276(a)(1) of the Communications Act prohibits any Bell operating company (BOC) that

⁹⁹ In the *Alternative Plan Order*, the Bureau did not require carriers to continue efforts to develop a technical solution that would enable TRS users to place coin sent-paid calls. *Alternative Plan Order*, 10 FCC Rcd at 10931. At that time, the Bureau found that carriers had made a concerted effort to find a solution for two years without success, and that the Bureau could not expect that carriers would develop a technical solution in the near future. *Id.* Instead, the Bureau required carriers to continue to evaluate and monitor technological developments, TRS numbering assignments, and network changes, that might increase the technical feasibility or reduce the cost of providing TRS coin sent-paid service and to address technical developments in the *18-Month Report*. *Id.*

¹⁰⁰ FCC Announces Appointment of Membership, Meeting Date, and Agenda for the First Meeting of the Consumer/Disability Telecommunications Advisory Committee, *Public Notice*, DA 01-517 (rel. Mar. 2, 2001). The Consumer/Disability Telecommunications Advisory Committee makes recommendations to the Commission regarding consumer and disability issues within the jurisdiction of the Commission in order to facilitate the participation of consumers, including people with disabilities and underserved populations, in the proceedings before the Commission.

provides payphone service from subsidizing its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations.¹⁰¹ USTA points out that although deregulating the payphone industry may increase local calling rates, the free local calls offered to TRS users under the Alternative Plan will not change. We seek comment on how the *1996 Payphone Orders* might affect relay calls from payphones or whether these orders will interfere with the ability of carriers to provide TRS users with payphone access under our proposed rules. We ask for comment on whether carriers should be reimbursed from the Interstate TRS Fund for providing TRS users with free local calls under the proposed rules and whether the procedures are consistent with or conflict with section 276(a)(1).¹⁰²

IV. CONCLUSION

58. This *Notice* explores the means by which individuals with hearing and speech disabilities will be able to make calls from payphones. The Commission has sought approaches that accommodate the concerns of both carriers and individuals with hearing and speech disabilities. We believe that the final rules adopted at the conclusion of this proceeding will provide payphone service to TRS users that is functionally equivalent to traditional payphone service provided to non-TRS users. It is our intention to craft solutions which fulfill the mandates of Section 225 of the Act and which are acceptable to both carriers and individuals with hearing and speech disabilities.

V. PROCEDURAL MATTERS

A. Ex Parte Presentations

59. This is a non-restricted notice and comment rulemaking proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a) (1994). Written submissions, however, will be limited as discussed below.

B. Initial Regulatory Flexibility Analysis

60. As required by the Regulatory Flexibility Act (RFA),¹⁰³ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules in this *Second Further Notice of Proposed Rulemaking*. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second Further Notice of Proposed Rulemaking*. The Commission will send a copy of the *Second Further Notice of Proposed Rulemaking*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. *See* 5 U.S.C. § 603(a). In addition, the *Second Further Notice of Proposed Rulemaking* and IRFA (or summaries thereof) will be published in the Federal Register.

¹⁰¹ 47 U.S.C. § 276(a)(1) (Supp. 1997).

¹⁰² *See supra* note 42.

¹⁰³ 5 U.S.C. § 603. The RFA, 5 U.S.C. § 601 et seq., has been amended by The Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

61. *Need for and Objectives of the Proposed Rule Changes.* The Commission is issuing this *Second Further Notice of Proposed Rulemaking* to seek comment on whether to modify the Commission's rules to permit TRS providers to treat coin sent-paid TRS calls in a manner different from all other calls, or to suspend permanently the enforcement of the requirement that TRS be capable of handling any type of call with respect to coin sent-paid calls. Additionally, the Commission seeks input on its proposed rules to provide functionally equivalent payphone service to TRS users in order to develop a sound policy on the obligations of TRS providers with respect to coin sent-paid calls.

62. *Legal Basis.* The authority for actions proposed in this *Second Further Notice of Proposed Rulemaking* may be found in sections 1, 2, 4, 225, 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. sections 1, 2, 4, 225, 303(r).

63. *Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.¹⁰⁴ The RFA defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small business concern" under section 3 of the Small Business Act.¹⁰⁵ A small business concern is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).¹⁰⁶ The rules we are considering in this proceeding, will affect telecommunications relay service (TRS) providers, pay telephone operators and wireline carriers and service providers.

64. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its Telecommunications Industry Revenue report, regarding TRS.¹⁰⁷

65. *TRS Providers.* Neither the Commission nor the SBA has developed a definition of small entity specifically applicable to providers of telecommunications relay services (TRS). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.¹⁰⁸ The SBA defines such establishments to be small businesses when they have no more than 1,500 employees.¹⁰⁹ According to our most recent data,¹¹⁰ there are 11 interstate TRS providers, which consist of interexchange carriers, local exchange carriers, state-managed entities, and non-profit organizations. We do not have data specifying the number of these providers that are either dominant in their field of operations, are not independently owned and operated, or have more

¹⁰⁴ 5 U.S.C. § 603(b)(3).

¹⁰⁵ 5 U.S.C. § 601(3).

¹⁰⁶ 5 U.S.C. § 632.

¹⁰⁷ Telecommunications Industry Revenue, Figure 2.

¹⁰⁸ Small Business Act, 5 U.S.C. § 632 (1996).

¹⁰⁹ 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4813.

¹¹⁰ This is recent data from the National Exchange Carrier Association, which administers the interstate TRS Fund.

than 1,500 employees, and we are thus unable at this time to estimate with greater precision the number of TRS providers that would qualify as small business concerns under the SBA's definition. We note, however, that these providers include large interexchange carriers and incumbent local exchange carriers. Consequently, we estimate that there are fewer than 11 small TRS providers that may be affected by the proposed rules, if adopted. We seek comment generally on our analysis identifying TRS providers, and specifically on whether we should conclude, for Regulatory Flexibility Act purposes, that any TRS providers are small entities.

66. *Pay Telephone Operators.* Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.¹¹¹ According to the most recent *Trends in Telephone Service* data, 615 carriers reported that they were engaged in the provision of pay telephone services.¹¹² We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 615 small entity pay telephone operators.

67. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.¹¹³ According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.¹¹⁴ All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent local exchange carriers (LECs). We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small incumbent LECs.

68. We have included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and is not dominant in its field of operation.¹¹⁵ The SBA's Office of Advocacy contends that for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in

¹¹¹ 13 C.F.R. § 121.201, SIC code 4813.

¹¹² Federal Communications Commission, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (March 2000).

¹¹³ 1992 *Census*, *supra*, at Firm Size 1-123.

¹¹⁴ 13 C.F.R. § 121.201, SIC code 4813.

¹¹⁵ 5 U.S.C. § 601(3).

scope.¹¹⁶ We have therefore included small incumbent LECs in this RFA analyses, although we emphasize that this RFA action has no effect on FCC analyses and determination in other, non-RFA contexts.

69. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* The proposed rules may require carriers to submit status reports on any new technologies that can provide coin sent-paid calls through the TRS centers. Any additional costs incurred as a result of this proceeding should be nominal because the entities affected, including any small businesses, have been in compliance with the *Interim Plan Order*. Thus, the Commission expects that the proposals will have minimal impact on small entities. We tentatively conclude that our proposals in the *Second Further Notice of Proposed Rulemaking* would impose minimum burdens on small entities. We seek comment on our tentative conclusion.

70. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. § 603(c). The Commission has tentatively concluded that the proposed rules will have minimal impact on small entities.

71. *Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules.* None.

C. Initial Paperwork Reduction Act of 1995 Analysis

72. This *Second Further Notice* contains either a proposed or modified information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this *Second Further Notice*, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public and agency comments are due at the same time as other comments on this *Second Further Notice*; OMB comments are due 60 days from date of publication of this *Second Further Notice* in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

¹¹⁶ Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small business concern," which the RFA incorporates into its own definition of "small business." See 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. 13 C.F.R. § 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. See, e.g., Implementation of the Local Competition Provision of the Telecommunications Act of 1996, CC Docket, 96-98, *First Report and Order*, 11 FCC Rcd 15499, 16144-45 (1996).

D. Comment Filing Procedures

73. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, interested parties shall file comments on or before thirty (30) days from the date of publication of this *Second Further Notice* in the Federal Register, and reply comments forty-five (45) days from the date of publication of this *Second Further Notice* in the Federal Register. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 13 FCC Rcd. 11322, 11326 (1998).

74. Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Or you may obtain a copy of the ASCII Electronic Transmittal Form (FORM-ET) at <http://www.fcc.gov/efile/email.html>.

75. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. Parties also should send three paper copies of their filing to Pam Slipakoff, Network Services Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 4-C421, Washington, D.C. 20554.

76. Parties who choose to file by paper should also submit their comments on diskette to Pam Slipakoff, Network Services Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 4-C421, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM-compatible format using Microsoft Word 97 for Windows or a compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read-only" mode. The diskette should be clearly labeled with the commenter's name, proceeding, including the lead docket number in the proceeding (CC Docket No. 90-571, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ("Disk Copy Not an Original.") Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

77. Written comments by the public on the proposed and/or modified information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, are due on or before 30 days after date of publication in the Federal Register. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed and/or modified information collections on or before 60 days after date of publication in the Federal Register. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1-C804, 445 12th Street, S.W.,

Washington, DC 20554, or via the Internet to jboley@fcc.gov and to Edward Springer, OMB Desk Officer, 10236 NEOB, 725 - 17th Street, N.W., Washington, D.C. 20503.

78. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Information Center of the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, and will be placed on the Commission's Internet Site. Copies of comments and reply comments are available through ITS, Inc. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418-0260, TTY (202) 418-2555, or at mcontee@fcc.gov, or Ruth Dancey at (202) 418-0305, TTY (202) 418-2970, or at rdancey@fcc.gov.

79. Other requirements. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. Comments and reply comments also must clearly identify the specific portion of this *Second Further Notice* to which a particular comment or set of comments is responsive. If a portion of a party's comments does not fall under a particular topic listed in the outline of this *Second Further Notice*, such comments must be included in a clearly labelled section at the beginning or end of the filing.

80. For further information contact: Pam Slipakoff at (202) 418-7705 (voice), (202) 418-0484 (TTY), or pslipako@fcc.gov (e-mail).

VI. ORDERING CLAUSES

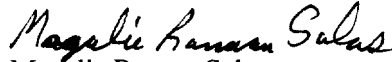
81. Accordingly, IT IS ORDERED, pursuant to the authority contained in 47 C.F.R. §§ 0.91(a), 0.204, 0.291 and 1.3, that enforcement of the requirement that Telecommunications Relay Services must be capable of handling coin sent-paid calls, as required by 47 C.F.R. § 64.604(a)(3), IS SUSPENDED pending the publication in the Federal Register of final rules adopted in this proceeding. This Order is effective upon release.

82. IT IS FURTHER ORDERED that common carriers providing telephone voice transmission services, and TRS providers, shall continue to make payphones accessible to TRS users pursuant to the terms of the Alternative Plan set forth in the *1997 Suspension Order*.

83. IT IS FURTHER ORDERED that pursuant to sections 1, 2, 4, 225, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 303(r), the *Second Further Notice of Proposed Rulemaking* is hereby ADOPTED.

84. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Second Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION


Magalie Roman Salas WFC
Secretary